

II. Legal System of Ukraine: From the Russkaia Pravda of Yaroslav the Wise to Modern Times

YAROSLAV THE WISE AS STATESMAN



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The Kievan Grand Prince, Yaroslav Volodymyrovych, is among the greatest statesmen not only of the Kievan Rus period, but of all Ukrainian history. Thanks to the State activity of Yaroslav the Wise, the medieval Russian State significantly enlarged its boundaries and made them safe, achieved unity and the peak of its might, inextricably linked with him, having become one of the most influential European powers in the period of early feudalism. One may say without exaggeration that thanks to him the medieval Rus early feudal empire was created (a proto-empire). The last had in the near future a genuine possibility to become the successor (both on the geopolitical plane and on the plane of the main stronghold of Eastern Christianity) of the Byzantine Empire which had begun to wane and proved not to be in a state to resist the onslaught from the West and from the East under conditions of sharpening internal contradictions. One must agree with Karamzin's assessment, who emphasized in his history of the Russian State that «Yaroslav was made the Monarch of all Rus and began to rule from the coasts of the Baltic Sea to Asia, Hungary, and Dacia».¹

It also is advisable to quote the characterization of Solovev given in his history of Russia, especially interesting because it shows the distinction of principle between the State activity of Yaroslav and the actions of all preceding Rus princes (except only for his father, who commenced the process of combining Rus power): «... Yaroslav was not a prince only in the meaning of a leader of the druzhina who aspired to conquests, glory, and booty in far countries; Yaroslav, it is evident, was a prince who brought order to the country».² To be sure, one cannot conceal the fact that a unified medieval Rus State within a rather brief period after the death of Yaroslav the Wise (in our view, justifiably called in a number of sources, similar to an Emperor, Yaroslav I) encountered sharp resistance from appanage princes and as a

¹ N. M. Karamzin, *История государства Российского* [History of the Russian State] (Moscow, 1991).

² S. M. Solovev, *История России* [History of Russia] (Moscow, 2001).

result was not able to consolidate the geopolitical might achieved or internal stability.

But we turn to the question of the historical achievements of the State course of the Grand Kievan Prince. Chief among them was the fact that he succeeded, having overcome the resistance of the strongest competitors, in unifying the lands of medieval Rus under his power, which made possible the strategic successes of his policies in other spheres.

It would be incorrect to believe that the future ruler of a unified Kievan Rus had from the very outset a developed plan for creating a centralized State and, moreover, that he did not commit material mistakes in his State activity (some might have cost him not only a loss of power, but of life). A number of such mistakes of the future head of the medieval Rus Empire should be mentioned for the reason that they clearly show the difficult and often contradictory path of the growth of a statesman which Yaroslav underwent. It is essential in order to understand the evolution of Yaroslav as a statesman his actions during his reign in Novgorod during the sharp confrontation with Grand Kievan Prince Sviatopolk (who deserved his nickname «the Damned»).

In and of itself the ruthless struggle between Yaroslav and Sviatopolk was a phenomenon incomparably greater than an ordinary princely feud, virtually always based only on personal competition for power. The triumph of Sviatopolk would have meant the loss of State autonomy by Kievan Rus and a renunciation of a civilized choice of profession of faith which Yaroslav's opponent already had begun to realize. The murderer of the martyr princes, Borys and Hlib, canonized subsequently by the Russian Orthodox Church, was married to the daughter of the Prince of Poland, Boleslaw I, the Valiant, and in the struggle for power counted on full-scale Polish intervention in internal Rus affairs. The fact that this was from the outset the conceived policy of Sviatopolk is shown by his attempt to leave Kyiv when he was Prince of Turov, which was sharply suppressed by his father. Boleslaw the Valiant, who fully appreciated the opportunity to seize lands of Rus opening before him, rendered active assistance to Sviatopolk's attempt at separatist revolt. It also seems that Sviatopolk and his father in law prepared plans to remove the Rus church from under the influence of Constantinople to direct subordination to Rome. Persuasive affirmation of this is the fact that in the attempt to separate the Turov Principality, Sviatopolk actively was assisted by the confessor of his wife, Bishop Reinbern, from the Polish city of Kolobrzeg, who played the role of a trusted advisor to the Prince of Rus. It is important to note that the involvement of the Poles differed in principle from the use of the Varangian *druzhina* by Yaroslav in the campaign against Sviatopolk. The Varangians were justly regarded in Kievan Rus as nothing more than mercenaries to be used solely for military purposes. Albeit sometimes the Varangian *druzhinas* were insubordinate to their masters, but in any event we do not refer to the seizure of Rus lands by them and substitution of the civilized profession of faith of Kievan Rus (because the culture of the Varangians was lower than that of medieval Rus, and questions of religion were of little interest to them). The danger of Polish expansion to the existence of the medieval Rus State as a whole Yaroslav could not fail to appreciate the consistent and artful policy (the German chronicler Thietmar of Merseberg, having devoted great attention to the events in the Slavonic countries, had every reason to write about the «cunning fox» who was the future King of Poland)¹ of

¹ M. Z. Jedlicki (ed.), *Kronika Thietmara* (Poznan, 1953).

Boleslaw the Valiant. Characteristic were his actions with respect to Yaroslav's sister, Predslava, whom Boleslaw the Valiant forcibly carried off while fleeing Kyiv in 1018 in the guise of a lawful wife. Not only Thietmar of Merseberg came to believe that the Polish prince was preparing a dynastic and legal substantiation for seizing all the lands of Kievan Rus and proclaiming himself to be the sole ruler thereof.

The Polish elite, unlike the Varangians, when deciding to provide military assistance to Sviatopolk (only thanks to this did he succeed in defeating Yaroslav at the River Bug in 1018 and occupy Kyiv a second time after his defeat at Lubech in 1016) were initially orientated towards territorial seizures of native Rus lands and thereafter to reducing Kievan Rus to the role of a vassal or semi-vassal State. Thanks to collaboration (this term of the twentieth century most adequately characterizes the policy of the Grand Prince of Kiev) of Sviatopolk, Boleslaw the Valiant became the actual master of southern Rus – Polish forces occupied the majority of its cities. Even after retreat, he succeeded in holding the Chervensk cities in Volhynia, and the wealth plundered in Rus was sufficient for him to significantly strengthen his influence in Poland and rapidly obtain the royal crown.

The legend should be doubted (originating in the «Tale of Bygone Years») about Sviatopolk opposing his father-in-law after occupying Kyiv in 1018, when supposedly by order of the prince the destruction commenced from unexpected attacks by an ally of the Poles. This legend was uncritically accepted by a number of specialists, although there is no documentary confirmation (including in Polish sources) of Sviatopolk proceeding against the Poles. On the contrary, the Grand Prince of Kyiv would have found it exceedingly disadvantageous to be deprived of his most serious military support and, most likely, this was a spontaneous action of the Rus population against Polish occupation or an uprising prepared by supports of Yaroslav against the Poles. The last is highly probable, taking into account that as much as one may judge the anti-Polish actions proceeded in Kyiv and various cities of southern Rus simultaneously or virtually simultaneously (which suggests a single coordinating center). Moreover, the actions supposedly initiated by Sviatopolk against Boleslaw the Valiant as a result significantly strengthened the position of Yaroslav as a statesman consistently fighting against the foreign occupation of Rus lands and for the unification thereof. The last, of course, did not mean that Sviatopolk did not think himself about conquering all Rus lands and unifying them under his own power. The phrase quoted by Nestor in the «Tale of Bygone Years» is illustrative, being uttered after the murder of the Drevlian Prince Sviatoslav Volodymyrovych (we give the quotation in the translation into the modern Russian language by Likhachev): «I shall kill all brothers and become the sole ruler of Rus land».¹ But he was not in a position to realize his «unification» plans other than with the assistance of foreign occupiers.

After the departure of Boleslaw the Valiant from a large part of Rus lands, Yaroslav's campaign commenced with the Pechenegs summoned by Sviatopolk, the danger from whom for the security of Kievan Rus was not much less than from the Poles. When Sviatopolk saw that without the Poles he lacked sufficient forces for Kiev to withstand the approaching Novgorodian druzhina of Yaroslav, he fled the capital in 1018 and appealed to the Pechenegs for assistance to replace the Polish forces. And he nearly succeeded in the following year to turn the tide in the battle on the River Alta, when the Pechenegs and Sviatopolk's druzhina met the forces of

¹ D. S. Likhachev (transl.), *Повесть временных лет [Tale of Bygone Years]* (Moscow, 1997).

Yaroslav. The «Tale of Bygone Years» testifies to the unprecedented ferocity of this battle. We quote the eloquent account of this battle by Nestor the Chronicler: «... the two armies attacked, and the plain of the Al'ta was covered with the multitudinous soldiery of both forces. It was then Friday. As the sun rose, they met in battle, and the carnage was terrible, such as had never before occurred in Rus. The soliders fought hand to hand and slaughtered one another. Three times they clashed, so that the blood flowed in the valley. Toward evening Yaroslav conquered, and Sviatopolk fled».

In the struggle for the State unity of Kievan Rus, Yaroslav invariably exhibited maximum severity towards the adversaries devoid of any sentiments at a time when it was essential to achieve victory. Illustrative is the fate of Sviatopolk the Damned, who became in folk legend one of the principal personifications of the betrayal of his native land. Two chronicle versions exist of his subsequent fate. Nestor wrote that Sviatopolk, paralyzed and insane, died «between the Poles and the hours». The First Novgorod Chronicle, older recension, simply indicates that the traitor prince fled to the Pechenegs (where doubtless he disappeared). We note that both chronicles are at one in stating a shameful end for the former Grand Kievan Prince. However, for a characterization of Yaroslav the version is more interesting of the medieval Icelandic Saga on Eimund (based on stories of Varangians passed on from generation to generation who directly participated in the confrontation between Yaroslav and Sviatopolk). According to the Saga on Eimund, Sviatopolk (in the Saga – Buritslav) fled to the Pechenegs and returned with a large Pecheneg army (the accuracy of the facts is confirmed by the reliability of the Saga as an historical source). In serve to Yaroslav (in the Saga – Yaritsleiv), the Varangian Eimund proposed that the prince kill Sviatopolk and received a slightly diplomatically concealed assent («I shall not incite people to combat against Prince Buritslav, nor am I guilty if he will be killed»)¹

The subsequent events of the Saga are described as follows: «Eimund observed where the prince spent the evening and where the prince lay in the tent, proceeded there at once and immediately killed the prince and many others. He took the head of Prince Buritslav with him. He ran with his men into the forest and were not found. Those who remained of Prince Buritslav's men were frightened by this great event, and Eimund and his companions left and returned home early in the morning. Eimund went to Prince Yaritsleiv and related to him the entire truth about the perishing of Buritslav. «Now look at the head, sir, do you know it?» The Prince blushed, seeing the head. Eimund said: «It is we Normans who did this courageous task, sir; now attend so that the body of your brother is properly buried, with honor». Prince Yaritsleiv replied: «You have successfully resolved and done this task so close to us: you should be concerned about his burial. And what will be done with those who came with him?» Eimund answered: «I think that they are gathering a Thing (Scandinavian and medieval German analogue to the medieval Russian veche, or assembly) and will suspect one another in this matter, because they did not see us and broke up in disagreement, and no one believes the other nor comes together, and I think that not many people will get up as their prince». The Normans left the city and proceeded by way of the forest, and had not arrived at the camp. This was so, Eimund believed, because the entire force of Prince Buritslav had departed and dispersed in disagreement. And Eimund went to the clearing, and there lay the body of the prince

¹ T. N. Dzhakson, *Исландские королевские саги о Восточной Европе (до середины XI в.)* [Icelandic Royal Sagas on Eastern Europe (to the mid-Eleventh Century)] (Moscow, 1994).

and no one was around him. They buried him and placed the head on the body, and went home. Many knew of the burial. All the people in the country came under the rule of Prince Yaritsleiv and took oaths, and he became prince over the principality which they had previously ruled as two».

It is difficult to say whether from the outset of the struggle between the Grand Prince of Kyiv and the Prince of Novgorod that the historic mission of unifying Russian lands and creating a single centralized State had fallen to him to achieve, but he clearly was aware of this (and effectively used this in the struggle for power) after the final victory over Sviatopolk. All his subsequent State activity persuasively shows this, the chief purpose of which was the domestic organization of Rus and the expansion of its boundaries. This observation is not contrary to the agreement with the Tmutarakan Prince Mstislav the Bold in 1026, of which Nestor wrote: «Mstyslav and Yaroslav then attached each other, and the Severians in the centre met the Varangians, who exhausted themselves in opposing them. Then Mstyslav came up with his retainers to attack the Varangians, and the combat was violent. As the lightnings flashed, the weapons gleamed and the thunder roared, and the fight was violent and fearsome. Now when Yaroslav saw that he was overpowered, he fled from the field with Haakon, the Varangian prince, who lost his gold-woven robe in his flight. Yaroslav arrived safely at Novgorod, but Haakon departed beyond the sea. Mstyslav, however, when on the morrow at dawn he beheld lying dead his own Severians and the Varangians of Yaroslav whom his men had slain, exclaimed in exultation, “Who does not rejoice at this spectacle? Here lies a Severian, here a Varangian, and my retainers are unharmed”. Then Mstyslav proposed to Yaroslav that the latter, as the eldest brother, should remain in Kyiv, while the Chernihov district should belong to Mstyslav. But Yaroslav did not dare to return to Kyiv until they were properly reconciled. So Mstyslav settled in Chernihov, and Yaroslav in Novgorod, though Kyiv was occupied by subjects of Yaroslav ... In the year 6534. Yaroslav recruited many soldiers and arrived at Kyiv, where he made peace with his brother Mstyslav near Horodets. They divided Rus according to the course of the Dnieper. Yaroslav took the Kyiv side, and Mstyslav the other. They thus began to live in peace and fraternal amity. Strife and tumult ceased, and there was a great calm in the land».¹

At this time, Yaroslav did not have sufficient forces to be victorious over the talented commander Mstyslav (borne out by the crushing defeat of the Grand Prince of Kyiv in 1024 at the battle of Lystven) who has given the nickname the «Bold» (in some sources, the «Courageous»). In the best case he would have awaited a prolonged war without the slightest guarantees of victory, which no doubt numerous Russian princes would have taken advantage of who were dissatisfied with the centralist policies of Yaroslav and foreign forces who had no hopes of capturing territories of Kievan Rus. It is illustrative that Mstyslav the Bold just as Sviatopolk the Damned relied in the campaign against Yaroslav on serious foreign policy support of the ancient enemies of Kievan Rus – the Khazars and the Cherkessians.

Both the history of the confrontation with Mstyslav the Bold and the rather serious struggle of Yaroslav against other princes who did not wish to acknowledge his leading role (that is, to create a unified Russian State) show persuasively the consistency of the course of the Grand Kievan Prince towards the unification of Rus lands.

¹ Quoted and adapted from S. H. Cross and O. P. Sherbowitz-Wetzor (transl. & ed.), *The Russian Primary Chronicle: Laurentian Text* (1953), pp. 135–136.

The Prince of Polotsk, Briachyslav Vasylkovich, was the most serious threat from among the appanage princes to the creation of a medieval Russian empire. In 1021 he captured and plundered Novgorod (this was an open personal challenge to Yaroslav) which demonstrated the power of the Polotsk Prince as a genuine rival of the Grand Prince of Kyiv in the struggle for primacy. In this situation Yaroslav should have acted rapidly, severely and decisively, so that other appanage princes did not follow in the footsteps of Briachyslav. With great effort Yaroslav was victorious, having assembled significant forces and, having overtaken the enemy departing for Polotsk on the River Sudomiry, inflicted a crushing defeat on Briachyslav.

In addition, the tactical armistice with Mstyslav the Bold was used very effectively by Yaroslav to strengthen and expand the empire being created. The Tmutarakan Prince gave to Yaroslav the military force he did not require, with the assistance of which the Grand Prince of Kyiv successfully resolved tasks of a general-State character. In 1030 mass disturbances occurred in Poland, which after the death of Boleslaw the Courageous (as a result of which many eminent representatives of the nobility and senior clergy were killed) lacked strong power, and this greatly weakened its military possibilities. Yaroslav understood that he had the chance to return Russian lands previously occupied by the late King. However, he had few of his own forces for a liberation campaign, and Yaroslav succeeded in obtaining the assistance of Mstyslav's forces. This gave him the possibility in the next year of liberating first Belz in the northeastern part of Galician Rus, and then all Cherven cities previously occupied by the Poles, which became an important factor in the restoration of the territorial integrity of Kievan Rus and further strengthening of its geopolitical role in Europe. Moreover, Yaroslav invaded Polish territory proper and as a result of a victorious campaign brought back many prisoners of war (later they were settled along the banks of the River Ros in new fortifications and served as additional defense against the raids of the nomads). Yaroslav avoided the temptation to interfere in internal Polish affairs, although he had the possibility to support in his own interests one of the contending parties (as recently had been done by Boleslaw the Courageous in Kievan Rus).

Yaroslav was aware that he had insufficient forces for such actions and he then would become bogged down in Poland, which would make it impossible to pursue other important foreign policy orientations. Time showed that Yaroslav took the right decision – this enabled him in the future to conclude a strategic alliance with Casimir I, King of Poland, the «Restorer» (grandson of Boleslaw the Courageous). The fact that the Grand Prince of Kyiv gave his sister, Maria Dobrohnev, in marriage to Casimir imparted a special stability to the alliance. In addition, this time when the situation became in principle otherwise, Yaroslav helped his new relative (immediately recognizing the affiliation of the Cherven cities to Kievan Rus) in 1047, suppressing an uprising by the separatist Moislav whose purpose was to proclaim Mazovia to be an independent State. Without the assistance of Yaroslav's *druzhina*, Casimir could not have suppressed Moislav's uprising or, in any event, the struggle would have dragged out for an extended period.

It is appropriate to quote the opinion of the author of a Russian history concerning Yaroslav's actions to suppress the separatist uprising in Poland, where an objective assessment is given of the Polish policy of the Grand Prince of Kyiv: «We do not know by what personal calculations Yaroslav was guided in Polish relations; but we do know that he, having returned home, took the side of order and Christianity, did

not want to strengthen barbarism, and the victory over Moislav of Mazovia inflicted a strong blow on the last».

One may thus say that the result of the long-term Polish policy of Yaroslav became not the final consolidation of the Cherven cities for Kievan Rus, but the transformation of Poland from a dangerous geopolitical adversary into a strategic ally (which it ceased to become only after the weakening of the State as a result of a renewal of princely internecine warfare).

In 1036 Mstyslav the Bold died, and after him Yaroslav had no real rivals capable of contesting his Russian leadership, which once more affirmed the correctness of the forced maneuvers of the Grand Prince of Kyiv. As Nestor wrote, the Grand Prince of Kyiv became the «absolute ruler on Russian land», which absolutely and precisely characterized the plenitude of his power and its geographic limits. However, in order to finally guarantee the immutability of his power throughout the territory of Kievan Rus (and the empire inextricably linked with this State unity), he undertook measures against Sudyslav Vladymyrovych, the prince of Pskov, who took at the time of Yaroslav's resistance to Mstyslav the Bold and Briachyslav Vasylykovich a rather indefinite position. Immediately after the death of the Polotsk Prince, the Grand Prince of Kyiv deprived Sudyslav Volodymyrovych of freedom (he was confined for 23 years) and liquidated the Principality of Pskov, which may be regarded as the end of the lengthy process commenced by Yaroslav to create a single medieval Russian Empire-State. A number of specialists, seeking to «justify» Yaroslav, assert that the actions of the Grand Prince of Kyiv are to be explained by the fact that Sudyslav had «defamed» him. It is believed that there were no «slanders». Yaroslav simply did not need him — he acted, if we apply today's evaluative standards, severely and perfidiously (although given the morality of the Middle Ages, this was completely normal, a soft slight, taking into account that the Pskov Prince was not executed), but fully aware, being guided by reasons of State necessity. Sudyslav was potentially dangerous to the unity of the empire (as dangerous was the existence of the Principality of Pskov in and of itself), and his behavior during the recently concluded princely quarrels gave grounds for the apprehensions. It is evident that in this situation being more apprehensive about a renewal of the struggle of appanage princes for power, Yaroslav reckoned that he had no other way out.

Returning to the question of the foreign allies of Kievan Rus, we note that Yaroslav was aware of the significance of having military and political allies in order to ensure national security, as his actions testified during the struggle against Sviatopolk. Above we noted that having fled from the capital, Sviatopolk attempted to take revenge by concluding an agreement with the Pechenegs. The Grand Prince of Kyiv, having understood the need to neutralize and deflect the forces of the Poles from Russian lands, undertook a «mirror» approach in response. He concluded an alliance against Boleslaw the Courageous with the Emperor of the Holy Roman Empire, Saint Henry II (973–1024), and negotiated relating to the simultaneous commencement of military actions against Poland. Although the military actions against Boleslaw the Courageous ended without result for the Russian and German forces (and Henry II quickly replaced the foreign policy orientation with a pro-Polish one), Yaroslav thereafter continued the line of a search for allies in all foreign policy orientations, which became one of the main factors in strengthening the positions of Kievan Rus in the international arena.

To be sure, the return of the Cherven cities-fortifications was strategically important (including the security of the western boundaries of Kievan Rus), but far from the only action to expand the territory of the empire being created by Yaroslav. The Grand Prince of Kyiv was forced to resolve the question of securing the boundaries not only with Poland, although the real threat emanated from there for a long time.

A major military and political success of Yaroslav was the consolidation of Kievan Rus in the northwest, a result of successful campaigns against the Yatvingians and Aestii, and the city of Iurev, founded by the Grand Prince of Kyiv (in the course of one campaign to subjugate Pskov), became the outpost of the empire in this important direction.

We note that, just as in the case with Casimir the Restorer and relations with other influential foreign policy partners, Yaroslav strengthened relations of alliance by means of dynastic marriages: the daughter Elizabeth was given in marriage to the future King of Norway, Harold III «The Severe» (The Ruthless); Anna married the King of France, Henry I; Anastasia married the King of Hungary, Andrei I the Catholic. Precise information about Yaroslav's sons does not exist, and various foreign sources from that period give contradictory information, but one may assert assuredly that: Iziaslav Yaroslavovich was married to Gertrude, the sister of the King of Poland, Casimir I; Sviatoslav Yaroslavovich was married in all likelihood to a great-niece of the Emperor of the Holy Roman Empire, Henry III of Staden; and Vsevolod Yaroslavovich, to the daughter (or niece – the question is unresolved) of the Byzantine Emperor, Constantine IX Monomachos. It remains only to add that the Grand Prince of Kyiv himself concluded a second marriage with the daughter of the King of Sweden, Olaf Skötkonung, Ingegerd (baptized Irina), which strengthened the influence of Kievan Rus in Scandinavia.

When analyzing the «dynastic diplomacy» of Yaroslav, one may suggest that he pursued a purpose more significant than merely ensuring the security of the frontiers of Kievan Rus. When the task of ensuring the security of boundaries of the empire was on the whole resolved, Yaroslav moved on to the next stage – the creation, using later terminology, of a «continental block» from several influential States of Europe with which Kievan Rus has coincident geopolitical interests. It was evident to the Grand Prince of Kyiv that the moment had come for the active incorporation of his State in European policy – Kievan Rus by this time had become one of the most influential European powers (for example, it greatly exceeded France in its economic and military significance in Europe). It was clear that Kievan Rus, the Holy Roman Empire, and France should become the «axis» of the continental block, the alliance of which would guarantee the security of Europe. While it would be unproductive to engage in an alternative history, we note nonetheless that if Yaroslav had succeeded in completing the creation of a continental block, the attack of the Mongols and Tatars would have been defeated by the combined forces of European States. Without looking forward into the future too far, the activeness of Yaroslav in a European orientation and his insistent policy of arranging a system of alliances objectively was directed against Byzantium, which had more blatantly become the principal geopolitical adversary of Yaroslav's empire.

Although Yaroslav did not succeed in creating a continental block, the purpose of his policies with respect to the nomads was basically realized. Almost from the outset of his rule in Kyiv, Yaroslav had resolved the task of creating those boundaries which would reliably guarantee the security of Kievan Rus encircled by predatory

neighbors and inflicting a blow on nomads, after which they could never arrange devastating raids on Russian lands. It was evident to the Grand Prince of Kyiv that without neutralizing the nomads he could not effectively resolve other key problems of the external security of the State.

The historical victory of the Grand Prince of Kyiv over the Pechenegs in 1036 became the principal accomplishment in the struggle against nomads (Yaroslav himself imparted such significance to this victory, as shown by founding on the site of the battle the principal cathedral of the Empire — St. Sophia of Kyiv, from the outset to overshadow the magnificent churches of Constantinople). Endowed with a rare gift to give laconic but exceedingly precise characterizations, the author of the history of the Russian State by these words described the victory of Yaroslav over the Pechenegs: «Yaroslav achieved victory most happy for the fatherland, having destroyed by a single blow the power of his most ferocious enemies. The greater portion of the Pechenegs lay on the ground; others, pursued by an annoyed enemy, drowned in the rivers; some were saved by flight, and Russia was liberated forever from their cruel attacks». We note that the defeat of the Pechenegs was a unique demonstration of the real unity of the Russian empire achieved by the Grand Prince of Kyiv. Both the Kyiv and the Novgorod druzhina fought against the Pechenegs shoulder to shoulder, which made it possible for Yaroslav to secure victory and place an end for always to the Pecheneg threat.

The military commonwealth of Kievans and Novgorodians additionally indicates the fact that thanks to the unification course of Yaroslav, a feeling of national unity began to be formed in Kievan Rus. Even the death of the Grand Prince of Kyiv did not interrupt this process — paradoxically the absence of a strong power after him (except for the period of Volodymyr Monomachos and to some extent, Andrei Bogoliubskii) made an even more material achievement of Russian unity, the foundation of which was the creator of the empire. The content of this process was most precisely formulated by Kliuchevskii in his classic course on Russian history: «... strong princes knew how to collect in their hands the forces of all lands and to direct them to a particular side. Without them, as their weak kinsmen and descendants were confused in their interests and relations, society saw ever more clearly that it would need to find a way out of these difficulties and to defend itself against danger. In thoughts about the means to do so, the Kievans thought about Chernihov more often, and the Chernihovian about a Novgorodian, and all together about the Russian land, about their common cause. The awakening in all of society of the thought of a Russian land, about something integral, about a common cause, as about an inevitable obligatory cause of each and all — this was a fundamental, most profound fact of the time ... The dominant ideas and feelings of the time which everyone mastered and which underlay their consciousness and mood, personification, stereotyped expressions ... In the XI-XII centuries the Russian Land was such a stereotype ... In this one may see a basic fact of our history perfected in those centuries».¹

No less important (especially in the historical perspective of the development of empire) for Yaroslav were relations with Byzantium. There is no doubt that the reasons for the Russo-Byzantine War of 1043 were deeper than the murder in Constantinople of a Russian merchant and subsequent refusal of the Greeks to apologize. Byzantium for external and domestic reasons was growing weaker and worried

¹ V. O. *Kliuchevskii*, Курс русской истории [Course of Russian History] (St. Petersburg, 1904).

increasingly about the emergence in place of a weak and fractionated Kievan Rus of a new geopolitical rival threatening Constantinople with the loss of its traditional geopolitical zones of influence. Most likely the demonstrative refusal of Constantine IX Monomachos to satisfy Kyiv's demands was an obvious step intended to humiliate Yaroslav. The Byzantine Emperor plainly did not believe that Yaroslav would decide on war against Byzantium. In turn, the Grand Prince of Kyiv was well informed about the military weakness of Byzantium (including information from his future son-in-law, Harold, who had served previously in the Byzantine forces) but, on the contrary, took advantage of the situation in order to show that the time of Byzantine dominance was irrevocably over. Son Volodymyr recently placed to reign in Novgorod was sent on the campaign to Constantinople by Yaroslav (which gave the Grand Prince of Kyiv a guarantee of complete control over Novgorod and the prevention of possible manifestations of separatism there) together with experienced military commanders – Ivan Tvomyrych from Kyiv and Vyshatoi from Novgorod, as well as Harald with his Varangians. Yaroslav's idea was justified, although not entirely as he had reckoned. The Russian forces suffered a defeat, but even the Greeks understood that this was of an incidental nature and Kievan Rus had become one of the strongest States of the Christian world. First Volodymyr Yaroslavych missed an opportunity to conclude an honorable peace with the Greeks (actually they acknowledged their defeat by this), having demanded incommensurately more tribute, which was explained by the influence on the Prince of Harald, who dreamed of taking Constantinople. But even after this, when the Greeks decided upon battle, their victory was brought by an unexpected storm that overturned the boat of Volodymyr's forces.

Constantine IX Monomachos was aware that the continuation of the war against Kievan Rus created a tremendous threat to Byzantium, especially not only the growing military might of Kievan Rus, but also the active diplomacy of the Grand Prince of Kyiv. Taking into account the international situation, it became evident that Yaroslav knew how to arm himself with the support of a number of influential European States against Byzantium, while the last was actually in international isolation. This forced the Byzantine Emperor to proceed in 1046 to conclude not only a peace, but an equal alliance with Yaroslav which actually signified recognition of the geopolitical equality of Byzantium and Kievan Rus. The establishment of relations of alliance with Constantinople facilitated Yaroslav being included in European policy, which made Kievan Rus one of the principal geopolitical players on the continent. For this purpose Yaroslav agreed to render to Byzantium all necessary military assistance, as expressly provided by the agreement concluded. On the basis of the Russo-Byzantine agreement, Yaroslav's druzhina in 1050 saved Constantinople from being taken by the Pechenegs, which might be considered to be the next stage in Russo-Byzantine relations – affirmation of the primacy of Kievan Rus with respect to Byzantium.

A small comment: the accusation that Yaroslav specially organized a campaign against Byzantium known to be fraught with failure in order to destroy the Novgorod druzhina which he suspected of disloyalty and a readiness to support advanced against the Grand Prince of Kyiv should be rejected. Not the slightest confirmation of this version exists; on the contrary, Yaroslav was completely convinced of the success of the campaign and he had no grounds to doubt the loyalty of the Novgorodians, who were under the strict control of Volodymyr Yaroslavich. No less improbable is the fact that Yaroslav might deliberately sacrifice a strong Novgorod

druzhina, which would weaken the position of the empire (especially in the north-west). We note that we refer there not to the inability of Yaroslav to manifest severe cruelty (we stress once more that cruelty according to the standards of our times) and Machiavellianism (although this term usually is wrongly understood – and the Grand Prince of Kyiv actually to a great extent based his State policies on the postulates formulated several centuries later by the great Florentine thinker, that the State is based on organized political power and laws). When the Novgorodians in response to the excesses of the Varangian druzhina of the Novgorod Prince in 1015 killed the majority of Varangians, the Prince reacted in the spirit of that time. He declared to the Novgorodians that he forgave them and invited representatives of the nobility to him. But instead of forgiveness, the princely druzhina arranged mass revenge, in the course of which about 1,000 persons were killed, according to the Chronicles (although the figure seems greatly exaggerated). However, on this same night he, according to the «Tale of Bygone Years», received news from Kyiv sent by Predslava: «Father is dead, and Sviatopolk is seated in Kyiv, killed Borys, sent for Hlib, save him». Yaroslav understood at once that the actions of Sviatopolk threatened him personally, and also that he would not succeed in coping with the murderer of the first Russian saints without the assistance of the Novgorod druzhina. This forced him to virtually seek repentance for his actions from the Novgorodians and request their assistance in the struggle against Sviatopolk. The Novgorodian nobility agreed to this without any conditions, and their representatives replied to Yaroslav's appeal for help: «Although, Prince, our brothers have been killed, we can fight for you».

We note in this connection the following events – the future creator of the medieval Russian empire as a politician knew how to fully win over the nobility of Novgorod, who supported the Prince by proceeding only from own local interests. The Novgorod leadership calculated that, having supported their prince in the struggle against the Grand Prince of Kyiv, they might thereby be liberated from the power of Kyiv and form an actually independent State. However, having supported Yaroslav in order to achieve separatist purposes, the Novgorod leadership objectively acted for the purpose of creating a single empire of Kievan Rus. This was, of course completely unexpected for the elite of Novgorod – all preceding actions of Yaroslav convinced them that he would support their intention to separate from Kyiv. Recently during the lifetime of his father, Volodymyr Sviatoslavych, he had refused to pay tribute to him (that is, de facto refused to recognize the supremacy of the Grand Prince of Kyiv), which could have led to the outbreak of military actions. Vladimir then, as Nestor testified, gave the order: «Clear the roads and build bridges», which as an instruction to begin to prepare for a march on Novgorod. In turn, having understood the danger for him of the approach of the Kyiv druzhina, Yaroslav appealed for assistance to the Varangians, who quickly became a reason for rebellion by the Novgorodians. The appeal to the Varangians shows that Yaroslav was not ready to concede and only the premature death of Volodymyr in 1015 led to there being no war between Kyiv and Novgorod. The irony of history is that having attempted for egoistic motives to achieve power alone and increase revenues, the Prince of Novgorod, having encroached upon the leadership of the Grand Prince of Kyiv, soon became the principal fighter for a single Russian power. His ambitious dreams were realized to an extent incomparably greater than he might have assumed before the death of his father – wishing initially only to become the fully-empowered master of Novgorod, he became the unifier and sovereign master of the entire Russian lands.

This is not affirmation of the absence in history of moral imperatives — rather one may recall the words of an historical personage of another country and era — that it is unimportant where a person came from: what he came with is important.

We stress that the territorial expansion achieved by Yaroslav of the boundaries of Kievan Rus was in no way an expansion by conquest (as for example, by Poland, or the Teutonic Order, or the Mongol-Tatars). The Grand Prince of Kyiv aspired only to suppress the aggression against the unified Russian State being created and to make its boundaries secure. Convincing evidence of this, inter alia, is the creation by the Grand Prince of Kyiv of a system of defensive land ramparts and fortified points, so-called «Dragon ramparts» (this enormous fortified installation one may compare with the Great Chinese Wall) on the boundary with the nomads. It is clear that if the intention of the Grand Prince of Kyiv was territorial expansion, and not defense of the boundaries of Kievan Rus requiring enormous expenditures and labor, defensive installations would have made no sense.

The ensuring by Yaroslav of external security simultaneously had decisive significance for the stable development of a power finding its feet in all vitally important spheres — the development of culture, development of the church, and so on. We dwell only on one question demonstrating an understanding of the importance of legal unification as one of the major factors of the consolidation of Kievan Rus (no less significant than powerful). The *Russkaia Pravda* of Yaroslav created for all lands of the empire a single legal field which strengthened Kievan Rus in the face of external threats and made stable development possible.

We stress a key moment without which it is impossible to comprehend the importance of this first Russian code which ultimately unified norms of both criminal and civil law and procedural legislation. The *Russkaia Pravda* was a binding digest of State law norms, and not a legal code solely for use by a church court, as historians of the *Kliuchevskii* school attempt to prove. *Kliuchevskii* himself wrote in this regard: «... what is the *Russkaia Pravda*? It is a church *sudebnik* for spiritual cases of the clergy and secular persons. The *Russkaia Pravda* is a digest of decrees concerning criminal crimes and civil violations to the extent to which such a digest was needed by a church court in order to try non-church cases of clergy ... The *Russkaia Pravda* and the Church Statute of Yaroslav are two parts of a single canon law code». No less categorical and as weakly argued is the assertion of the leading historian: «... the text of the *Russkaia Pravda* was formed in the sphere not of a princely, but of a church, court, in the milieu of church jurisdiction, by whose needs and purposes the compiler of the *Pravda* was guided in his work. The church codifier reproduced the law which operated in Rus, having in view the requirements and foundations of church jurisdiction, and reproduced only to the extent of these needs and in the spirit of these fundamentals».¹

Virtually the sole argument is that the *Russkaia Pravda* did not make provision for decision by judicial duel, although this is mentioned in other sources. References are cited in this connection to the Byzantine writer, Leo Diakon and the Arab, Ibn-Dast. Not to mention that their evidence relates to the tenth century, it is understandable that the codified law could not at once displace fully the norms of traditional customary law. Even with all the firmness of the rule of Yaroslav (which did not happen all at once), the *Russkaia Pravda* could not in a brief period displace the customary

¹ V. O. *Kliuchevskii*, Курс русской истории [Course of Russian History] (St. Petersburg, 1904).

rules embedded in popular tradition. Although, ultimately, Kliuchevskii himself was forced to carefully acknowledge that the Russkaia Pravda in time moved from the sphere of canon law to the domain of State law.

The reason for which Kliuchevskii clearly sought to diminish the State significance of the Russkaia Pravda, reducing it to the level of a church court, is obvious: he considered «barbaric» the dominant approach therein to punishment as a monetary fine for the commission of criminal crimes against the person (he was especially upset by this norm with respect to homicide).

But Kliuchevskii's position with respect to the Russkaia Pravda is exceedingly useful for the specialist because it makes it possible to «prepare» the first code of Ukrainian law, including in order to ascertain the traces of and the significance of the influence of foreign legal systems on it. Indeed, Kliuchevskii is right that elements of Byzantine canon law are present (but not more than elements); however, there are also, albeit few in number, elements of German law, and also Scandinavian and ancient Slavonic customary law. Nonetheless, the Russkaia Pravda is not a compilation. It is not even a matter of the fact that no Article is present from foreign sources verbatim in the Russkaia Pravda, without reworking (sometimes materially so). The Russkaia Pravda by its very existence proves the correctness of the conception of the «historical school of law» advanced by its leading German representative in the nineteenth century, F. von Savigny (among the followers of whom the present writer is one). According to the historical school of law, any legal system (to be sure, excluding mechanical borrowings) is the result of lengthy evolutionary historical development and has an expressed national specific nature responsive to its spiritual foundation. As von Savigny asserted in his principal work, a multi-volume study of the system of contemporary Roman law: «In legal science any success depends upon the interaction of various types of spiritual activity. With a view to singling out one of these types and determining the orientation in jurisprudence corresponding to this, I and other specialists have introduced the term “historical school”. This aspect of legal science came especially to the forefront in that period, but did nothing to deny or diminish the value of other orientations, but in connection with the fact that for an extended time the historical approach was not used in jurisprudence and therefore here more than anywhere it was essential to stimulate an impact in order to reinstate against the natural laws of historicism in legal science».¹

The Russkaia Pravda, having creatively reworked various foreign secular and canon law systems, successfully adapted them to the conditions of Kievan Rus and to the respective interests of the great majority of the population and the spiritual-civilized foundation of the State. It also became an integral component of the State line of the Grand Prince of Kyiv with regard to the creation of an empire called upon to become one of the main geopolitical centers of Eurasia and made a material contribution to resolving this task.

In initiating the creation of the Russkaia Pravda, Yaroslav understood the need for systemic changes, although he might have been satisfied with the power of his princely court and preserving embedded customary law. However, the Grand Prince of Kyiv did not display such a systematic approach on the basic issue of State construction. He destroyed the appanage system detrimental to the interests of Kievan Rus as a fact of State life, but did not undertake the next necessary step — the destruc-

¹ F. von Savigny, Система современного римского права [System of Contemporary Roman Law] (Moscow, 2011), I.

tion of this institute legally. Possibly feelings of kinship triumphed (a clear example: the decision concerning the reign on Novgorod of his son, Volodymyr), as Karamzin believed. Without a strong State leader, the appanage system not eliminated legally (which, as any system, always prevails over persons) will show a tendency towards self-reinstatement. Possibly he was ready to do this in the future, not considering to be urgent the preparation of a legal document at a time when the will of the Grand Prince of Kyiv was an absolute law for the entire empire. Yaroslav for all of his wisdom might have foreseen much, but not the day of his own death, and the possibility of a final consolidation of State unity was lost. Those heirs of Yaroslav who, just as he, pursued the creating of a unified State found this to be significantly more complex — not one of them (even Volodymyr Monomachos) had that authority or power as did the creator of the medieval Russian empire for a brief period.

Tabachnyk D. Yaroslav the Wise as Statesman

Abstract. The article considers historical achievements of the Kievan Grand Prince Yaroslav the Wise, who united the ancient Russian lands under his rule, which made possible strategic success of his policies in other vital areas.

Key words: Yaroslav the Wise, statesman, Kievan Rus, Russkaia Pravda.

Табачник Д. В. Ярослав Мудрий як державний діяч

Анотація. У статті розглянуто історичні досягнення великого князя Київського Ярослава Мудрого, який об'єднав давньоруські землі під своєю владою, що зробило можливим стратегічні успіхи його політики в інших життєво важливих сферах.

Ключові слова: Ярослав Мудрий, державний діяч, Київська Русь, Руська Правда.

Табачник Д. В. Ярослав Мудрый как государственный деятель

Аннотация. В статье рассмотрены исторические достижения великого князя Киевского Ярослава Мудрого, который объединил древнерусские земли под своей властью, что сделало возможным стратегические успехи его политики в других жизненно важных сферах.

Ключевые слова: Ярослав Мудрый, государственный деятель, Киевская Русь, Русская Правда.